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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,848	08/09/2006	Klaus Wittmaier	3962 0179US	4099

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DREISS, FUHLENDORF, STEIMLE & BECKER
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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

07/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,848

Applicant(s)

WITTMAYER ET AL.

Examiner

Sameh H. Tawfik

Art Unit

3721

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-42 and 44-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-42 and 44-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 08/09/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Note that the USPTO has no access to the foreign documents filed along with the PCT/EP2005/001337, as the PCT was filed at the European Patent.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “wherein adjacent steps have a mutual vertical separation which is sufficiently larger as to permit horizontal displacement of at least one blank from a higher lying step onto at least one blank disposed on an adjacent lower lying step” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27-42 and 44-52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The new added amendments add new issues, which were not described in a way to be understood as no where on the filed specification is referring or describing the claimed steps on the tacking means.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-42 and 44-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 recites the limitation "said sorting and stacking means" in lines 5 and 6. There is insufficient antecedent basis for this limitation in the claim.

In claim 27, lines 8-12; "wherein adjacent steps", "a mutual vertical separation", "a higher lying step", and "lower lying step;" is vague and indefinite as it is not clear what applicants are referring to by "step"?; etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27-33, 45, 46, 51, and 52 the best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Schaede (U.S. Patent No. 6,646,280).

Schaede discloses a device for producing blanks from a product web, the device comprising: rotary cutting means (Fig. 2; via 06); means disposed downstream of said rotary cutting means for sorting and stacking the blanks (Fig. 3; via 16 and 19:21); means disposed between said cutting means and said sorting and stacking means, for determining faulty blanks (Fig. 2; via inspection device 09) and for directly removing said faulty blanks prior to delivery to said sorting and stacking means; and waste means accepting the faulty blanks from said

determining and removing means (Fig. 3; via waste means 14); sorting and stacking means comprising a delivery nest defining steps and the blanks are disposed at differing vertical and horizontal positions, see for example (Fig. 3; via stack of blanks 17 by stations 18 and 19:21 stacked at different levels/steps differing vertical and horizontal).

Regarding claims 28-32: suction belt means is disposed downstream of the rotary cutting means, wherein the blanks are separated from a waste strip or a waste grid at the suction belt means (Fig. 2; via suction conveyor 08; column 2, lines 15 and 16); wherein the waste is directly separated from the blanks immediately downstream of the cutting means (via 14); a surface of a counter pressure cylinder with a chopper disposed downstream of the cutting means (via the chopper at station 14).

Regarding claim 33: determining and removing means comprising an optical test device above the suction belt means (Fig. 2; via inspection device 09 above suction belt 08).

Regarding claim 45: the product web is printed in a predetermined order (column 2, line 32).

Regarding claim 46: a pushing device pushes a sorted stack onto a transport belt (Fig. 3; via pins under station 16 and ribs at stations 19:21).

Regarding claims 51 and 52: it is inherent that prints done on the sheet, which could be consider as marks while the cut done in respect to such prints.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-42, 44 and 47-50 rejected under 35 U.S.C. 103(a) as being unpatentable over Schaede (U.S. Patent No. 6,646,280).

Regarding claims 34-38 and 47: Schaede does not disclose the use of suction cup belt/suction cup wheel with individual suction cups along the belt. However, the examiner takes an official notice that such use of suction cups to convey and move blanks along a conveying belt is old, well known, and available in the art. Note that Schaede discloses the use of a second suction belt 11 to further convey the blanks.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Schaede's suction belt 11 by the use of suction cups instead, as a matter of engineering design choice, in order to improve holding the conveyed blanks and accurately placing them on the determined location.

Regarding claims 39-42 and 44-46: the sorting and stacking means comprises one stacking means disposed downstream of the suction belt means (Fig. 3; via stacks 17 and counting device 19:21); wherein the stacking means has a vacuum belt (Fig. 2; via suction belt 11 part of the stacking station); a delivery nests positioned below the vacuum belt (Fig. 3; via compartments at 19:21).

Regarding claims 48-50: controlling the suction belt to hold to different blanks in rows (Figs. 1-3); a plurality of stacking means are consecutively disposed, see for example (Figs. 1-3; via 16 and 19:21).

Response to Arguments

Applicant's arguments with respect to claims 27-42 and 44-52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sameh H. Tawfik/
Primary Examiner, Art Unit 3721